

INDIVIDUAL RULES OF PRACTICE
Hon. Jed S. Rakoff

Chambers
Room 1340
United States Courthouse
500 Pearl Street
New York, NY 10007
(212) 805-0401

Courtroom
Room 14-B
United States Courthouse
500 Pearl Street
New York, NY 10007
(212) 805-0129

1. **Written Communication**

Correspondence with the Court, and copying the Court on correspondence with others, is strictly forbidden, except as specifically authorized by these rules or expressly requested by the Court. All communications with Chambers must be by means of joint telephone calls, as described in Rule 2, infra.

2. **Oral Communication; Motions and Applications**

(a) No ex parte communication with Chambers is permitted except for those limited applications in criminal cases expressly permitted by statute to be made ex parte. Counsel for all affected parties must be on the line whenever a telephone call to Chambers is placed; however, all similarly situated parties may, if they wish, designate a “lead” counsel to represent them on any such call. The judge and/or his clerks are normally available to receive telephone calls between 8:00 A.M. and 9:00 P.M. If all lines are busy, an answering machine will pick up the call. Any message left on the Chambers answering machine or with Chambers staff must include the docket number of the case and the names and telephone numbers of all participating counsel.

(b) As to any contemplated motion or application of any kind whatever, excepting only a motion for admission pro hac vice (which may be filed without prior authorization) or the ex parte criminal applications referred to in the preceding paragraph, counsel for all affected parties must jointly call to apprise Chambers of the nature of the proposed motion or application and to arrange for an in-court or telephonic conference with the Court, normally within 24 hours. (In criminal cases, telephonic conferences will be limited to scheduling matters except upon prior consent of defendants.) If counsel for any party seeks to convene a call to Chambers, counsel for all other affected parties are expected to make themselves available for such a call within 24 hours of the request. If, after successive attempts, counsel for any affected party is unavailable

for the call, or if one of the parties is an incarcerated person proceeding pro se, the initiating party may then send Chambers and all affected counsel a letter, not to exceed two double-spaced pages, describing the efforts made to convene a conference call and briefly describing the proposed motion or application. In such a case, per Rule 1, supra, no reply or other correspondence is permitted, but a conference with the Court will be promptly arranged.

(c) No party will ever be denied the right to make a motion permitted by law; but to the extent that the proposed motion or application can be disposed of upon oral presentation at the conference described in Rule 2(b), supra, this will be done. (While telephone conferences will not be recorded or transcribed except upon prior request of counsel, the Court will, upon request at the time of the call, promptly embody in written form any rulings made during the call.) If the Court determines that papers are necessary, the issues will be defined, and a schedule for service and filing of papers arranged during the conference. With respect to motions for summary judgment, Local Civil Rule 56.1 will be strictly enforced.

(d) Where motion papers are necessary, counsel for the moving party, following the scheduling of the motion, shall file a short Notice of Motion setting forth a one-sentence description of the motion, the schedule for service of the various parties' papers, and the date and time of oral argument as set by the Court. In civil cases no other papers may be filed with the Court until the motion is fully briefed by all affected parties. Motion papers shall consist of moving papers, answering papers, and the moving party's reply papers. Any memorandum of law submitted with the moving papers or the answering papers is limited to 25 double-spaced pages, and the reply memorandum is limited to 10 double-spaced pages. All memoranda of law must meet the font requirements set forth in Second Circuit Local Rules 32(a) and (b), and must include a table of authorities, arranged alphabetically, with case citations. On the same date that reply papers are served, the moving party must arrange to file the complete set of all parties' original motion papers with the Clerk of the Court and also to deliver a courtesy copy of the complete set of papers to the Courthouse mailroom for delivery directly to Chambers.

3. Initial Conferences and Civil Discovery

(a) In civil cases, an initial conference will be held no later than six weeks after filing of the Complaint (and often earlier) regardless of whether issue has been joined. Immediately upon receipt of the Notice of Court Conference, plaintiff's counsel must furnish the Court with a courtesy copy of the Complaint.

(b) No less than one week prior to the initial conference, the parties to a civil case must furnish the Court with a written report of their agreements or disagreements regarding case management and discovery, in a form corresponding to the Court's Case Management Order Form (Form D). In formulating their discovery plans, the parties should bear in mind the Court's preference that initial document discovery take temporal precedence over depositions, that expert reports be exchanged simultaneously, and that the filing of dispositive motions await the completion of discovery. Interrogatories are limited to those authorized by Local Civil Rule 33.3(a), and no deposition may extend beyond one business day without prior leave of the Court. At the initial conference, the Court will issue a binding Case Management Order that, in most cases, will require the case to be ready for trial within five months of the date thereof.

(c) In criminal cases, an initial conference will be held promptly after arraignment. At this conference, the Court will set a schedule for the completion of discovery and the filing of any motions.

4. Trial-Pending Exchanges and Pretrial Orders in Civil Cases

The trial-pending exchanges among the parties mandated by Fed. R. Civ. P. 26(a)(3) shall be strictly enforced, except that the disclosures prescribed therein may be made 21 (instead of 30) days before trial. In addition, in all civil cases, the parties shall jointly submit to the Court, no later than one week prior to jury selection, a binding Pretrial Consent Order (plus a courtesy copy of same for Chambers) consisting of the following items:

- a) A statement of the facts and other matters on which the parties agree.
- b) A particularized description of each party's remaining claims, counterclaims, cross-claims, or third-party claims (failure to specify which will be deemed a waiver).
- c) In a jury case, each party's specific contentions as to the facts that are disputed. In a non-jury case, each party's proposed findings of fact and conclusions of law.
- d) A particularized statement of the damages claimed, including amounts, for each claim, counterclaim, cross-claim, or third-party claim.
- e) A list of the names of the witnesses (both fact witnesses and expert witnesses) in the likely order of appearance.
- f) A list of all exhibits to be offered by each party, and particularized objections thereto noted in accordance with Fed. R. Civ. P. 26(a)(3).

g) A final estimate of the length of trial (assuming a typical trial day of 9:00 A.M. to 5:00 P.M., Monday through Friday).

5. **Pretrial Exchanges In Criminal Cases**

Each of the parties in a criminal case must deliver to the Courthouse mailroom for delivery directly to Chambers at least three business days before trial: (a) a list of the witnesses that the party expects to call, in the likely order of appearance, and (b) a courtesy copy of the exhibits that the party expects to offer on its direct case. Except for good cause shown, these same materials must also be served on all other parties at least two business days before trial.

6. **Trial Exhibits and Deposition Transcripts In Civil Cases**

In all civil cases, a courtesy copy of each party's pre-marked trial exhibits must be delivered to the Courthouse mailroom for delivery directly to Chambers at least three business days before trial. At the same time, the parties shall deliver to the Courthouse mailroom for delivery directly to Chambers marked-up copies of the portions of transcripts of depositions intended to be read into evidence, with particularized objections noted thereon in accordance with Fed. R. Civ. P. 26(a)(3).

7. **Proposed Jury Charges**

In all jury cases, whether civil or criminal, proposed jury charges must be submitted to the Court at least one week prior to trial. Any proposed jury charges submitted thereafter will not be considered by the Court, except upon a showing that the proposed charge relates to an issue that could not reasonably have been expected to arise at trial.

8. **Proposed Voir Dire Requests**

In all jury cases, whether civil or criminal, proposed voir dire requests must be submitted to the Court at least three business days before the start of jury selection.

9. **Motions in Limine**

After a trial date is set, any party may, without further leave of Court, serve a motion directed at limiting the proof at trial, provided the motion is served upon all parties by no later than two weeks prior to trial. All such motions in limine, and any opposition thereto, must be submitted to the Court at least one week prior to trial.

10. **Sentencing**

Sentencing will normally take place within 90 days of the entry of a guilty plea or finding of guilt at trial, except in the case of defendants who have entered into "cooperation

agreements" with the Government. With respect to cooperating defendants, counsel will be required at the time of plea to propose a sentencing date that will give the defendant adequate opportunity to demonstrate substantial assistance and provide the Court with adequate opportunity to assess such assistance. If adopted by the Court, such sentencing date will not be further extended except upon a showing of unusual circumstances, and in no event will sentencing be adjourned beyond three years from the date of plea. Any written submissions relating to any sentence must be submitted to the Court at least one week before the date of sentencing.

11. **Stipulations of Settlement and Discontinuance**

No adjournments will be granted on the grounds of settlement unless the parties have submitted to Chambers a stipulation or letter on behalf of all parties affirming that the case has been finally settled and that the Court may dismiss the case with prejudice. Except for good cause shown, no such stipulation shall be accepted that provides for re-opening of the case more than 30 days after dismissal or that provides for the Court to retain jurisdiction for more than 30 days following dismissal except to enforce injunctive relief.